

TITLE 16 MEDICAL BOARD OF CALIFORNIA

NOTICE IS HEREBY GIVEN that the Medical Board of California is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at Embassy Suites San Francisco Airport - Waterfront, 150 Anza Blvd, Burlingame, CA 94010, at 9:00 a.m., on February 7, 2014. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Medical Board of California at its office not later than 5:00 p.m. on January 27, 2014, or must be received by the Medical Board of California at the hearing. The Medical Board of California, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 2018, 3502, and 3510 of the Business and Professions Code, and to implement, interpret or make specific Sections 2058, 3502, and 3502.1 of said Code, the Medical Board of California is considering changes to Division 13.8 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST

A. Informative Digest

The Board is proposing the following changes:

Amend Section 1399.541 in Article 4 of Division 13.8.

The existing regulation permits a physician assistant (PA) to act as a first or second assistant in surgery under the supervision of an approved supervising physician.

This proposal would permit a PA to act as a first or second assistant in surgery without the personal presence of the supervising physician if the supervising physician is immediately available to the PA. "Immediately available" means able to return to the patient, without delay, upon the request of the PA or to address any situation requiring the supervising physician's services.

This proposal would also delete the word, "approved" as a modifier to the supervising physician. Senate Bill 1981 (Stats. 1998, Chapter 736) repealed Business and Professions Code Section 3515. SB 1981 deleted the requirement that the Board review and approve applications for PA supervisors.

B. Policy Statement Overview/Anticipated Benefits of Proposal

The Board's highest priority is the protection of the public and the proposed regulations will provide protection of the people of California by updating and clarifying supervision requirements while a PA acts as a first or second assistant in surgery. This regulatory proposal benefits the health and welfare of California residents because it represents the current standard of practice within the medical community, and will enhance consumer protection by allowing better access to care while still protecting the consumer. This proposal would permit the physician to address other patient needs while authorized PA services are being performed. Under this proposal the physician is still responsible for supervising the PA and is required to be "immediately available" to the PA, if needed, at the request of the PA or to address any situation requiring the supervising physician's services.

C. Consistency and Compatibility with Existing State Regulations

After conducting a review for similar regulations, the Board has found that these are the only regulations concerning this subject area. Therefore, the Board has determined that the proposed regulatory changes are neither inconsistent nor incompatible with existing regulations.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Sections 17500 - 17630 Require Reimbursement: None.

Business Impact

The Medical Board of California has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. This initial determination is based on the following facts or evidence/documents/testimony:

The Medical Board regulates physicians and surgeons in the State of California, and the Physician Assistant Board, within the jurisdiction of the Medical Board, regulates PAs. The Medical Board currently has approximately 128,641 licensees and the Physician Assistant Board has

approximately 9,101 licensees for FY 2012-2013. PAs work in a variety of practice settings and specialties under the supervision of licensed physicians. The boards do not have data on either the number of physicians who supervise PAs by practice setting or the number of PAs who work as first or second assistants in surgery.

This regulation will clarify supervision requirements for PAs and supervising physicians as to the availability of the supervising physician when PAs are acting as first or second assistants in surgery. However, according to comments received at public board meetings, this proposed regulatory change represents the current evolution of the standard of practice within the medical community and, therefore, it is the Medical Board's understanding that this proposal would not have an adverse economic impact on the physicians or PAs who would be subjected to this requirement.

Cost Impact on Representative Private Person or Business

The Medical Board of California is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs None

EFFECT ON SMALL BUSINESS

The Medical Board of California has determined that the proposed regulations or would not affect small businesses. The Board does not license businesses, the Board licenses individuals; therefore, there is no impact on small businesses or any business.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses

The Medical Board of California has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses, the elimination of jobs or existing businesses, or the expansion of businesses in the State of California.

Benefits of Regulation

The Medical Board of California has determined that this regulatory proposal will have the following benefits to health and welfare of California residents, worker safety, and the state's environment:

This proposal will update and clarify supervision requirements while a PA acts as a first or second assistant in surgery. Consumer protection is enhanced because physician supervision of PAs acting as first or second

assistants in surgery is precisely defined. This regulatory proposal benefits the health and welfare of California residents because it

represents the current standard of practice within the medical community and will enhance consumer protection by allowing better access to care while still protecting the consumer. This proposal would permit the physician to address other patient needs while authorized PA services are being performed. Under this proposal the physician is still responsible for supervising the PA and is required to be "immediately available" to the PA if needed at the request of the PA or to address any situation requiring the supervising physician's services.

CONSIDERATION OF ALTERNATIVES

The Medical Board of California must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposal described in this Notice, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Medical Board of California has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, any document incorporated by reference, the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request to the contact person named below, or by accessing the Board's or the PA Board's website.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the websites listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Glenn L. Mitchell, Jr., Executive Officer
Physician Assistant Board
Address: 2005 Evergreen Street, Suite 1100
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The backup contact person is:

Name: Christine Valine
Medical Board of California
Address: 2005 Evergreen Street, Suite 1200
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Website Access: Materials regarding this proposal can be found at:

www.pac.ca.gov

or:

www.mbc.ca.gov